

**Los Angeles County
Metropolitan Transportation Authority
Office of the Inspector General**

**AUDIT OF PROCUREMENT PROCESS
FOR THE CRENSHAW/LAX TRANSIT
CORRIDOR CONTRACT (No. 0988)**

Report No. AUD-16-02

March 28, 2016





Metro

Los Angeles County
Metropolitan Transportation Authority

Office of the Inspector General
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DATE: March 28, 2016

TO: Metro Board of Directors
Metro Chief Executive Officer

FROM: Karen Gorman, Inspector General

SUBJECT: Report on Audit of Procurement Process for the Crenshaw/LAX Transit Corridor Contract (No. 0988), Report No. 16-AUD-02

Metro's Board of Directors requested that the Office of the Inspector General audit the procurement process for the Crenshaw/LAX Transit Corridor Contract. Our audit found that overall the procurement process was conducted in accordance with Metro's policies and procedures, contract requirements, and government regulations. To improve upon this, we identified the following areas where enhancements can be made to help ensure that Metro's procurement process functions in a more efficient and effective manner:

- Verify required professional licenses and certifications,
- Update certain procurement forms,
- Verify proposers' experience/performance, and
- Review Metro's standard contract language to ensure that the role and responsibilities of the contractor's project manager are clearly defined.

Management response indicated the recommendations in the report have been or will be implemented. A copy of the management response is included as an attachment to this report.

If you have any questions, please contact Yvonne, Zeng, Audit Manager at (213) 244-7301.

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INTRODUCTION

Pursuant to the direction of the Metro Board of Directors, the Office of the Inspector General performed an audit of the procurement process for the Crenshaw/LAX Transit Corridor Contract (No. 0988).

BACKGROUND

Metro issued a Request for Proposal (RFP) on June 22, 2012, to select a Design-Builder to provide management, coordination, professional services, labor, equipment, materials and other services to perform the final design and construction of the Crenshaw/LAX Transit Corridor Project. The Project is an 8½ mile light rail line that will extend services from the intersection of Exposition and Crenshaw Boulevards to the Metro Green Line's Aviation/LAX station. It will serve the cities of Los Angeles, Inglewood, Hawthorne, and El Segundo as well as portions of unincorporated Los Angeles County.

In accordance with California Public Contract Code Section 20209, Metro used a two-phase process to select the contractors. The first phase was to issue a Request for Qualifications (RFQ) on December 21, 2011, to solicit interested contractors/joint ventures to submit Statements of Qualifications that Metro used to review and evaluate which respondents were qualified to successfully deliver the project. Those respondents, who were determined to be responsive to the RFQ and qualified, were invited to participate in the second phase of the procurement process, the Request for Proposal (RFP), which was issued on June 22, 2012. There were 4 respondents qualified under the RFQ phase and the contract was subsequently awarded to Walsh/Shea Corridor Contractors (hereafter referred to as Walsh/Shea) on June 27, 2013.

OBJECTIVES, METHODOLOGY, AND SCOPE OF AUDIT

The objectives of this audit were to:

- Determine if government regulations and Metro's policies and procedures were adhered to during the procurement process, and
- Verify if important information and documents required in the RFQ and RFP were received from contractor and vetted by Metro Staff (specifically in the area of safety).

To achieve the audit objectives, we performed the following procedures:

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- Reviewed Metro Procurement policies and procedures, contract requirements, and government regulations related to Design-Build contracts;
- Reviewed contract files and submittals provided by Walsh/Shea;
- Verified that information and documents submitted by Walsh/Shea were in compliance with submittal requirements for each phase of the procurement process;
- Reviewed Metro’s Safety and Quality Assurance/Quality Control forms issued to proposers during the RFP phase;
- Interviewed the Director of Contract Administration and other appropriate Procurement officials;
- Verified that persons identified by contractor for “Key Personnel” designated positions had a valid license and/or certification as required by the RFQ and RFP; and
- Verified that members of the Source Selection Committee had signed the required confidentiality and non-disclosure forms.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESULTS OF AUDIT

Our audit found that overall Metro’s procurement process for the Crenshaw/LAX Transit Corridor Contract was in accordance with Metro’s policies and procedures, contract requirements, and government regulations. To improve upon this, we identified the following areas where enhancements can be made to help ensure that Metro’s procurement process functions in a more efficient and effective manner:

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A. Validation of Required Licenses and Certifications of “Key Personnel” Needs to be Documented

Qualification Requirements in RFQ and RFP

Both the RFQ and the RFP of the Crenshaw/LAX Transit Corridor Project listed minimum qualifications for “Key Personnel” including any mandatory professional licenses or certifications for certain positions.

- Section 3.2.2, G.5 of the RFQ shows 12 “Key Personnel” positions where a specific license or certification is required; the RFQ states that the person designated to fill that position must have the required license/certification “now or by the proposal due date” (see Attachment A). For 11 of the 12 positions the RFQ stated that individual must be an engineer, architect, or professional land surveyor licensed and registered in the State of California. The remaining position required certain safety certifications. For example, the RFQ states:
 - “The Design Manager must be a professional engineer licensed and registered in the State of California, now or by the Proposal Due Date.”
 - “The Safety Manager shall be a Certified Safety Professional (CSP) or Certified Industrial Hygienist (CIH).”
 - “The Survey Manager must be a professional land surveyor registered in the State of California, now or by the Proposal Due Date, and must be a Principal Land Surveyor in good standing.”
- Exhibit A (Minimum Qualification of Key Personnel and Functions) of the RFP shows the same 12 “Key Personnel” positions shown in the RFQ where a specific license or certification is currently required (see Attachment A). For example, the RFP for the position of Lead Architect states: “Must be an architect, currently licensed and registered in the State of California.” In addition, the RFP included the following two positions that also require a license.
 - “Electrical Design Lead: “Must be a professional engineer, licensed and registered in the State of California by issuance of the Notice to Proceed.”
 - “Mechanical Design Lead: “Must be a professional engineer, licensed and registered in the State of California by issuance of the Notice to Proceed.”

Review of Contract Files

As part of the procurement process, a contractor at each phase of the process was required to provide Metro with the names and resumes of the individuals who would be filling the positions classified under the “Key Personnel” designation. In some instances, copies of

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required licenses/certifications were submitted with the resumes although this was not required.

Our review of contract files, found no written evidence that required professional licenses and certifications of “Key Personnel” listed in the RFQ/RFP were verified at any point during the procurement process or after the award of the contract. Also, our review of the Walsh/Shea “Key Personnel” schedule submitted during the RFQ phase found that one person’s professional engineering license, which was a requirement for the position, had been cancelled in September 2011. The Statements of Qualifications from respondents were received by Metro in March 2012. Our review of contract files found no documentation to show that this issue had been identified by Metro procurement staff during the RFQ phase. However, during the RFP phase, the contractor replaced this staff person as well as a couple of others. Our review found that the Source Selection Committee did question the experience of some contractor’s staff that filled “Key Personnel” positions; nevertheless, we did not see any written evidence that licenses and other certifications were verified with California Department of Consumer Affairs, Board of Professional Engineers or any other applicable organizations that issue related licenses and certifications.

We brought this issue to the attention of Procurement Management; they advised that they would perform their own review of contract files to verify whether there is documentation that shows that the licenses and certifications for key personnel had been checked. They later informed us that no documentation exists. We found that the Procurement Department had no process in place for ensuring that the verification of “Key Personnel” licenses and other certifications were documented in the contract files.

B. Some Procurement Forms Need to be Updated

Our audit found that some of the procurement forms need to be updated, specifically for those related to safety and quality assurance/quality control.

1. Accurately Reflect Current Government Regulations

Our review of Metro’s Pro Form 063 (Proposer’s Industrial Safety Record) found that the form references Cal-OSHA Form 200 (Log and Summary of Occupational Injuries and Illnesses). However, the California Department of Industrial Relations, in January 2002 replaced Form 200 with Form 300 (Log of Work – Related Injuries and Illnesses) and Form 300A (Summary of Work – Related Injuries and Illnesses). The change in forms was also accompanied by revised and updated rules related to the recordkeeping of occupational injuries and illnesses. Therefore, it is important that the Procurement Department stays abreast of changes to government regulations to ensure that information contained in forms is current.

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2. Obtain More Significant and Meaningful Information

Our review of Metro's Quality Assurance/Quality Control Form (Pro Form 061) and Metro's Safety Form (Pro Form 062) found that the forms as currently written could be enhanced to provide Metro with more significant and meaningful information at a critical time in the procurement process. For example:

- Form 061 requires the proposer to provide only a copy of the Table of Contents of the proposer's Quality Assurance/Quality Control Program. As a means of obtaining more significant information earlier in the procurement process regarding the proposer's Quality Assurance/Quality Control Program, Metro should consider having the proposer provide more detailed information that is of most importance to Metro, such as training, inspections, reporting, and correction follow-up.
- Metro's Safety Form (Pro Form 062) requires the proposer to provide a resume of the proposed Project/Site Lead Safety Representative, along with copies of the person's certification cards. When the Lead Safety Representative is not present, he/she is required to designate other persons who will be responsible in his/her absence. However, there was no requirement to provide similar documentation for other safety personnel who will be working on the contract. Metro should also consider requesting the resumes and certification cards at this point for the proposer's designated alternate safety representatives.

Section 2.4 of the Metro Safety and Security Manual states "In order to insure uniform safety coverage in situations when the assigned Safety Representative cannot be on the worksite, Metro has established the following Alternative Safety Coverage Policy. This policy allows the contractor to utilize a Designated Safety Representative (DSR) to perform safety duties of the required Lead Safety Representative or Safety Representative during specific periods of absence."

Obtaining this additional information during the RFP phase, instead of after the Notice to Proceed (NTP) is issued, could be beneficial to Metro because it would provide more information regarding the overall experience and qualifications of the potential safety staff that Metro would be working with, which could be a key factor in helping to decide if contractor should be awarded the contract. Metro's Safety and Security Manual under Section 2.4, states "After the NTP, the contractor shall submit for acceptance a list of candidates for DSR Coverage." This step could be modified and used as a re-verification of the information provided earlier with Safety Form 62.

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3. Determine if Procurement Forms are Consistent with Current Policies and Procedures

Our review of Procurement Forms 061, 062, and 063 found that these forms had not been revised and updated for some time. The Quality Assurance/Quality Control form (Pro Form 061) and the Safety Form (Pro Form 062) have a last revision date of May 2002. The proposer's Industrial Safety Record Form (Pro Form 063) has a last revision date of January 2004. Procurement should periodically review all forms to ensure that they are in accordance with current policies and procedures as well as government regulations.

C. Verification of Proposer's Current and Past Experience/Performance Needs to be Documented

As part of the submittal package for the RFP phase, proposers were required to provide information on current and completed projects. In conjunction with this information, each proposer and its key participants were required to have an Experience/Performance Questionnaire (Exhibit C) completed by three current or past clients to demonstrate a satisfactory or above rating. Our review of contract files related to Walsh/Shea found no written evidence to show that Procurement had performed an independent verification of information related to the contractor's prior performance on the questionnaires. Based on our work performed, it appears that there was no process in place for documenting in the contract files, Metro's verification of contractor's prior performance. To ensure the information on the questionnaires is valid; Procurement should perform and document the results of its independent verification in the contract files.

OTHER RELATED MATTERS

During a previous OIG review, we found room for improvement in the administration of the same contract related to the participation of the contractor's Project Manager (PM). This previous review found the following:

Although the PM devoted a large number of hours to this project with some hours incurred remotely, he was not consistently in Los Angeles from Monday to Friday. The Metro contract did not require that the PM be solely dedicated to the Metro project or always be present at the work site, as long as he designated another person to be responsible in his absence. In accordance with the contract, the PM had designated persons who were responsible in his absence, but the contract did not require Metro to receive advance written notice of when the PM will be away from the job area and who the delegated substitute will be.

The question of whether the project was impacted by the PM not being solely dedicated to the Metro project was not clearly answered. However, we recommended that Metro consider whether it is appropriate to revise contract standard language to ensure that the role,

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responsibilities, and dedicated time of the Project Manager are clearly defined. Specifically, we suggested that Metro consider putting minimum requirements for a PM's on-site presence in the future contracts as well as requiring the contractor to provide an advance written notice for absences that may exceed the minimum requirement together with written notice of "who will be the next in charge" during those absences. Metro should reserve the right to disapprove excessive absences not due to illness or emergencies, and request remedies for excessive absences.

CONCLUSION

Our audit found that overall the procurement process for the Crenshaw/LAX Transit Corridor Project was conducted in accordance with government regulations, contract requirements, and Metro's policies and procedures. To improve upon this, we identified the following areas where enhancements can be made to help ensure that Metro's procurement process functions in a more efficient and effective manner:

- Verifying "Key Personnel" licenses and certifications,
- Updating certain procurement forms,
- Verifying proposers' experience/performance, and
- Reviewing Metro's standard contract language to ensure that the role and responsibilities and dedicated time of the contractor's Project Manager are clearly defined.

RECOMMENDATIONS

The Procurement Department should:

1. Develop written procedures and process to validate (a) required professional licenses and certifications for "Key Personnel specified in RFQ and RFP, and (b) document this validation in the contract files. This process should also include periodic validations whenever "Key Personnel" are replaced during the life of the project.
2. Periodically review safety forms to ensure that the forms are in compliance with Metro's current policies and procedures and government regulations.
3. Review safety forms and make revisions to enhance the forms to provide more significant and meaningful information during critical stages of the procurement process.

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4. Develop a process that ensures that contractor's work experience and performance has been vetted and documented in the contract files.
5. Inform the OIG on Metro's decision of whether or not it is appropriate to revise contract standard language on future construction contracts to ensure that the role, responsibilities, and dedicated time of the Project Manager are clearly defined.

MANAGEMENT COMMENTS TO THE RECOMMENDATIONS

Metro management provided a response to the recommendations in the report that stated:

Recommendation 1.

In the future, key personnel positions that require a license/certification by the proposal due date will be verified and documented as part of the proposal evaluation, and validation of the required professional licenses and certifications that are required by Notice to Proceed (after contract award) for key personnel should be performed by Metro Program Management after contract award and such compliance documented in the project files like any other technical requirement. Since the Crenshaw/LAX design build contract is awarded, the recommended action cannot be accommodated as part of that evaluation; however, the action described by V/CM can be implemented for the Purple Line Extension, Section 2 design build contract.

Recommendations 2 and 3.

Upon review of Metro Pro Forms 061, 062, and 063, procurement staff agrees that these forms have not been revised for some time. Since the forms are not exclusively a procurement obligation, Vendor/Contract Management is working with Metro's Safety department and County Counsel to review and, if necessary, revise the forms.

Recommendation 4.

In future procurements, Metro Vendor/Contract Management will ensure the procurement file documents the reference checks of all Proposers' stated experience and past performance in the form of a template. The Proposal Evaluation Team (PET) will still be required to perform an assessment of the Proposers' project history for the defined minimum experience and project performance requirements defined in the RFP's Evaluation Criteria.

Recommendation 5.

Metro has already modified its Request for Qualifications/Request for Proposal in the Contract language for the Westside Purple Line, Section 2, to reflect the requirement that the Project

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Manager be fully dedicated to Metro's project and that the Project Manager may not have other duties within their company or its joint venture partnership. This modification to the Project Manager requirements will only apply to Metro's mega projects.

EVALUATION OF METRO MANAGEMENT COMMENTS

Management's proposed corrective actions are responsive to the findings and recommendations in the report. We, therefore, consider all issues related to the recommendations resolved based on the corrective action plan. However, staff should follow up on completing the implementation of the recommendations.

CRENSHAW/LAX TRANSIT CORRIDOR CONTRACT
LIST OF “KEY PERSONNEL” POSITIONS REQUIRING A LICENSE/CERTIFICATION

Project Phase	Job Title	License/Certification Requirement	When Required
RFQ/RFP	Design Manager	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP – Currently licensed
RFQ/RFP	System Design Manager	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP – Currently licensed
RFQ/RFP	Safety Manager	Certified Safety Professional, Certified Industrial Hygienist, or Construction Health and Safety Technician	RFQ - Currently RFP - Currently certified
RFQ/RFP	Utilities Design Engineering/Coordination Manager	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Traffic Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Track Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Structural Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Civil Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP – Currently licensed
RFQ/RFP	Geotechnical Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Survey Manager	Professional Land Surveyor (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Tunnel Design Lead	Professional Engineer (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFQ/RFP	Lead Architect	Architect (California License)	RFQ - Currently/Proposal Date RFP - Currently licensed
RFP	Electrical Design Lead	Professional Engineer (California License)	Must be licensed by Notice to Proceed
RFP	Mechanical Design Lead	Professional Engineer (California License)	Must be licensed by Notice to Proceed

Copy of Management Comments to the Draft Report



Metro

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DATE: February 5, 2016

TO: Yvonne Zheng, Audit Manager

FROM: Ivan Page, Interim Executive Director, Vendor/Contract Management

SUBJECT: Response to Draft Report: Audit of Procurement Process for the Crenshaw/LAX Transit Corridor Contract (No. 0988), Report No. 16-AUD-02

Thank you for the opportunity to respond to Draft Report: Audit of Procurement Process for the Crenshaw/LAX Transit Corridor Contract (No. 0988), Report No. 16-AUD-02.

The Office of the Inspector General completed an audit of the procurement process for the Crenshaw/LAX Transit Corridor contract. The auditors found that the process was conducted in accordance with Metro's policies and procedures, contract requirements, and government regulations. However, the auditor recommends the following areas where enhancements could be made to help ensure Metro's procurement process functions in a more efficient manner.

- Verification of key personnel licenses and certification;
- Update certain procurement forms;
- Verification of proposers' past experience/performance; and
- Review Metro's standard contract language to ensure that the roles and responsibilities of the contractor's project manager are already defined.

Verification of "Key Personnel" Licenses and Certification

As part of the procurement process, at each phase of the procurement the proposer was required to provide Metro with the names and resumes of the individuals who would be filling the positions classified under the "Key Personnel" designation. It is recommended that Metro verify the licenses and certification of proposed key personnel during procurement of a firm.

It should be noted that all the Key Personnel positions, except for the Safety Manager, listed in Attachment A of the Audit Report were deleted as key personnel positions in Amendment No. 8 to the RFP, when requesting Best and Final Offers.

Verification of key personnel professional licenses and certifications prior to contract award would require Proposers to have those key personnel licensed and certified in the state of California by the proposal or bid submittal due date. This discourages their proposed use of talented professionals from around the world or even other parts of the United States not already licensed or certified in the State of California. California professional licenses and certifications can take months to obtain and creates an undue hurdle that otherwise responsible Proposers would need to overcome, as well as result in those additional costs necessary to respond to the solicitation. If Metro implemented such a requirement, it could easily be interpreted to be a geographical preference, which is prohibited by FTA guidelines. It is far more relevant and important to verify the Proposer's key personnel past experience and education, which is a necessary element for making a determination of the responsibility of a Proposer. The professional licenses and certifications necessary of key personnel for the performance of

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the contract is determined and established by Metro Program Management for each procurement. In the future key personnel positions that require a license/certification by the proposal due date will be verified and documented as part of the proposal evaluation and validation of the required professional licenses and certifications that are required by Notice to Proceed (after contract award) for key personnel should be performed by Metro Program Management after contract award and such compliance documented in the project files like any other technical requirement. Since the Crenshaw/LAX design build contract is awarded the recommended action cannot be accommodated as part of that evaluation; however the action described by V/CM can be implemented for the Purple Line Extension, Section 2 design build contract.

Some Procurement Forms Need to be Updated

Update of certain procurement forms was identified as another area where enhancements could help ensure for efficient and effective processes. Upon review of Metro Pro Forms 061, 062, 063, procurement staff agrees that these forms have not been revised for some time. Since the forms are not exclusively a procurement obligation, V/CM is working with Metro's Safety department and County Counsel to review and, if necessary, revise the forms.

Verify Proposers' Experience/Performance

On the Crenshaw/LAX project each proposer and its key participants were required to have an Experience/Performance Questionnaire completed by at least three current or past clients to demonstrate a satisfactory or above rating. This requirement has also been a part of the procurements for all other mega projects at Metro. Metro staff validated the completed Experience/Performance questionnaires and even obtained additional questionnaires, as deemed necessary by the Contracting Officer, in collaboration with the evaluation team, during the evaluation process. While the auditors may not have found separate documented evidence of such validation in the Crenshaw/LAX procurement file, the Proposers experience was one of the evaluation criteria, which is documented in the evaluation scoring. Also, the Proposers' past experience was described in the Board Report recommending an award.

In future procurements, Metro V/CM will ensure the procurement file documents the reference checks of all Proposers' stated experience and past performance in the form of a template. The Proposal Evaluation Team (PET) will still be required to perform an assessment of the Proposers' project history for the defined minimum experience and project performance requirements defined in the RFP's Evaluation Criteria.

Define Roles and Responsibilities of the Contractor's Project Manager

It is recommended that Metro revise contract standard language to ensure that the role, responsibilities, and dedicated time of the Project Manager are clearly defined. Metro has already modified its Request for Qualifications/Request for Proposal in the Contract language for the Westside Purple Line, Section 2, to reflect the requirement that the Project Manager be fully dedicated to Metro's project and that the Project Manager may not have other duties within their company or its joint venture partnership. This modification to the Project Manager requirements will only apply to Metro's mega projects.

If you have any questions, please contact me at (213) 922-6383.

Attachment: Corrective Action Plan

Copy of Management Comments to the Draft Report

cc: Philip Washington
Stephanie Wiggins
Richard Clarke
Victor Ramirez
Fred Origel
Diana Estrada
Karen Gorman

Copy of Management Comments to the Draft Report

Attachment A

	Description	Corrective Action	Person Responsible	Completion Date
1	Suggested process enhancement: Verify key personnel licenses and certification	Validation of the required professional licenses and certifications for key personnel should be performed by Metro Program Management after contract award and such compliance documented in the project files like any other technical requirement.	Victor Ramirez	N/A
2	Suggested process enhancement: Update procurement Pro Forms 061, 062, 063	V/CM is working with Metro's Safety department and counsel to ensure that Pro Forms 061, 062, 063 are reviewed and, if necessary, revised.	Mayumi Lyon Ales	3/15/2016
3	Suggested process enhancement: Verify proposers' experience/performance	VCM will create a reference check form to ensure verification of proposer's stated past experience.	Victor Ramirez/ Mayumi Lyon Ales	3/15/2016
4	Suggested process enhancement: Review Metro's standard contract language to ensure that the roles and responsibilities of the contractor's project manager are already defined	Metro has already modified its Request for Qualifications/ Request for Proposal in the Contract language for the Westside Purple Line, Section 2, to reflect the requirement that the Project Manager be fully dedicated to Metro's project and that the Project Manager may not have other duties within their company or its joint venture partnership. This modification to the Project Manager requirements will only apply to Metro's mega projects.	Victor Ramirez	N/A

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